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**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JOHN VON HEGEL, JR.,</b>	) Case No.
	)
Plaintiff,	) <b>COMPLAINT FOR VIOLATION</b>
	) <b>OF THE PENNSYLVANIA FAIR</b>
vs.	) <b>CREDIT EXTENSION</b>
	) <b>UNIFORMITY ACT,</b>
<b>CAPITAL MANAGEMENT</b>	) <b>PENNSYLVANIA UNFAIR TRADE</b>
<b>SERVICES, L.P.,</b>	) <b>PRACTICES AND CONSUMER</b>
	) <b>PROTECTION LAW, AND</b>
Defendant.	) <b>FEDERAL FAIR DEBT</b>
	) <b>COLLECTION PRACTICES ACT</b>

**I. INTRODUCTION**

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Pennsylvania Fair Credit Extension Uniformity Act and Pennsylvania Unfair Trade Practices and Consumer Protection Law. Furthermore, Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter "FDCPA"), which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

## II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. §1692k (d).

## III. PARTIES

3. Plaintiff, John Von Hegel, Jr. (“Plaintiff”), is a natural person residing in Pike county in the state of Pennsylvania, and is a “consumer” as defined by the FDCPA, 15 U.S.C. §1692a(3).

4. At all relevant times herein, Defendant, Capital Management Services, L.P., (“Defendant”) was a company engaged, by use of the mails and telephone, in the business of collecting a debt from Plaintiff which qualifies as a “debt,” as defined by 15 U.S.C. §1692a(5). Defendant regularly attempts to collect debts alleged to be due another, and therefore is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6).

## IV. FACTUAL ALLEGATIONS

5. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.

6. On average, Plaintiff received from Defendant, more than two collections calls per day, more than ten collections calls per week, and more than twenty collections calls per month in connection with an attempt to collect an alleged debt.

1           7. Defendant contacted Plaintiff at times and places that were known to  
2 be inconvenient and with such a frequency as to constitute harassment under the  
3 circumstances.  
4

5           8. Plaintiff entered into a payment plan with Defendant, whereby  
6 Plaintiff will repay the alleged debt at approximately \$57.00 per month.  
7

8           9. Defendant falsely represented that Plaintiff never agreed to a  
9 payment plan, and requested that Plaintiff pay more on the alleged debt monthly  
10 despite having continued to debit Plaintiff's bank account pursuant to the  
11 approximately \$57.00 per month agreement.  
12

13           10. Defendant continued to harass Plaintiff with excessive calls despite  
14 debiting Plaintiff's account monthly, pursuant the agreed upon payment plan.  
15

16                   **COUNT I: VIOLATION OF THE PENNSYLVANIA FAIR CREDIT**  
17                   **EXTENSION UNIFORMITY ACT**  
18

19           11. Plaintiff hereby incorporates all facts and allegations set forth in this  
20 Complaint by reference as if fully set forth at length herein.  
21

22           12. The Pennsylvania Fair Credit Extension Uniformity Act  
23 ("PaFCEUA") 73 P.S. § 2270.1 *et seq.* prohibits harassing and deceptive conduct  
24 by creditors while engaging in the practice of collecting a debt from consumers.  
25

26           13. Section 2270.5 of the PaFCEUA allows consumers to recover  
27 damages against creditors who engage in unfair and deceptive debt collection  
28

1 practices under the Pennsylvania Unfair Trade Practices and Consumer Protection  
2 Law (“PUTCPL”).  
3

4 14. Plaintiff is a “consumer” as defined by § 2270.3 of the PaFCEUA.

5 15. Defendant is a “creditor” as defined by § 2270.3 of the PaFCEUA.  
6

7 16. Defendant’s conduct violated the PaFCEUA in multiple ways,  
8 including but not limited to:

9 a) Causing Plaintiff’s telephone to ring repeatedly or  
10 continuously with intent to harass, annoy or abuse Plaintiff;  
11

12 b) Communicating with Plaintiff at times or places which  
13 were known or should have been known to be inconvenient  
14 for Plaintiff;

15 c) Repeatedly contacting Plaintiff at his/her place of  
16 employment after being informed that such calls are  
17 inconvenient to Plaintiff and violate the policy of  
18 Plaintiff’s employer;

19 d) Falsely representing the character, amount, or legal status  
20 of Plaintiff’s debt;  
21

22 e) Using false, deceptive, or misleading representations or  
23 means in connection with collection of a debt;  
24

25 17. As a result of the above violations of the PaFCEUA Plaintiff  
26 suffered and continues to suffer injury to Plaintiff’s feelings, personal humiliation,  
27 embarrassment, mental anguish and emotional distress, and Defendant is liable to  
28

1 Plaintiff for Plaintiff's actual damages, statutory damages, and costs and  
2 attorney's fees.  
3

4 **COUNT II: VIOLATION OF THE PENNSYLVANIA UNFAIR TRADE**  
5 **PRACTICES AND CONSUMER PROTECTION LAW**

6 18. Plaintiff hereby incorporates all facts and allegations set forth in this  
7 Complaint by reference as if fully set forth at length herein.  
8

9 19. Defendant's conduct as set forth above constitutes an unfair or  
10 deceptive practice within the meaning of the Pennsylvania Unfair Trade Practices  
11 and Consumer Protection Law, 73 P.S. §201-1, et seq.  
12

13 20. Defendant's violation of the Pennsylvania Unfair Trade Practices  
14 and Consumer Protection law has caused Plaintiff to suffer the damage set forth  
15 hereinabove.  
16

17 21. Plaintiff is entitled to triple damages and attorneys' fees as a result of  
18 Defendant's conduct, pursuant to 73 P.S. §201-9.2.  
19

20 **COUNT III: VIOLATION OF FAIR DEBT**  
21 **COLLECTION PRACTICES ACT**  
22

23 22. Plaintiff reincorporates by reference all of the preceding paragraphs.  
24

25 23. Defendant's conduct violated the FDCPA in multiple ways,  
26 including but not limited to:  
27  
28

- a) Causing Plaintiffs telephone to ring repeatedly or continuously with intent to harass, annoy or abuse Plaintiff (§1692d(5));
- b) Communicating with Plaintiff at times or places which were known or should have been known to be inconvenient for Plaintiff (§1692c(a)(1));
- c) Falsely representing the character, amount, or legal status of Plaintiff's debt (§1692e(2)(A));
- d) Using false representations and deceptive practices in connection with collection of an alleged debt from Plaintiff (§1692e(10); and
- e) Engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff (§1692d)).

24. As a result of the above violations of the FDCPA Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and emotional distress, and Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct

1 violated the FDCPA;

2 B. Actual damages;

3 C. Statutory damages;

4 D. Costs and reasonable attorney's fees; and,

5 E. For such other and further relief as may be just and proper.

6  
7  
8 **PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

9 Respectfully submitted this 17th day of October, 2011.

10  
11 By: /s Cynthia Levin

12 **Cynthia Levin, Esq. (PA 27050)**

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